

REMARKS

In the Advisory Action dated May 13, 2004, claims 1-9 and 26-29 have been objected to for containing non-elected subject matter. The Examiner required that the claims be amended to exclude non-elected subject matter.

Claims 30-50 have been cancelled without prejudice to delete the non-elected subject matter. Applicants reserve the right to file continuing applications for the deleted subject matter. No narrowing amendments have been made and no new matter has been added. Applicants respectfully request entry of this amendment.

This Response addresses the Examiner's objection to the claims. Accordingly, the present application is in condition for allowance. Favorable consideration of all pending claims is therefore respectfully requested.

Claims 1-50 are pending in the application. The Examiner has withdrawn claims 30-50 from consideration as being directed to the non-elected invention. The Examiner alleged that Claims 1-9, 11-24 and 26-29 contain subject matter that falls outside the scope of the elected invention.

Applicants herein amend the claims to cancel claims 30-50 with the understanding that the non-elected subject matter can be prosecuted in a copending divisional application.

Applicants seek clarification as to the Examiner's objection to claims 1-9, 11-24 and 26-29 as still containing non-elected subject matter. Specifically, the Examiner stated in the Official Action (dated October 20, 2003) that Group III of the Restriction Requirement was circumscribed by the following language:

W is as claimed,

R₁ is as defined except H, C₁₋₈ alkyl,

R₂ and R₃ are as claimed except H, C₁₋₄ alkyl,

R₄, R₅ and R₆ are Cl, F, and Br

R₁₀ is as claimed except H, C₁₋₄ alkyl,

R₁₁ is halo, or NO₂, and

J is as claimed except C₁₋₈ alkyl.

Applicants respectfully submit the above language pertaining to Group III is inconsistent with the language of Group III in the Restriction Requirement of September 30, 2002. Applicants respectfully direct the Examiner to the Official Action dated September 30, 2002, wherein the Examiner described Group III as follows:

Group III Group I claim(s) 1-29, drawn to a compound of the formula (I) wherein, R₁ is non-heterocyclic radical (such as H, C₁₋₈ alkyl, C₃₋₈ alkenyl, C₃₋₈ alkynyl, phenyl, C₃₋₈ cycloalkyl etc.), R₂ and R₃ is independently H, phenyl, C₁₋₄ alkyl, C₃₋₈ alkynyl, C₃₋₈ cycloalkyl, R₄, R₅ and R₆ is independently H, Cl, F, or Br, R_A and J are non-heterocyclic radical (such as H, C₁₋₆ alyl, C₃₋₈ alkenyl, C₃₋₈ alkynyl, phenyl, C₃₋₈ cycloalkyl etc.), R_C, R_D, R_E, R_F and R_G is independently selected from non-heterocyclic radical (such as H, C₁₋₆ aryl, C₃₋₈ alkenyl, C₃₋₈ alkynyl, phenyl, C₃₋₈ cycloalkyl etc.) and all other variable substitutions are as defined and one method of use (e.g. treating cystic fibrosis).

Applicants further submit that they have reviewed every other paper in the file

and could not find any mention of an amendment to the Restriction Requirement. Applicants also submit that claims 1-9, 11-24 and 26-29 all fall within the scope of the Restriction Requirement as imposed in the September 30, 2002 Official Action. Applicants thus respectfully request that the Examiner remove the objection to these claims and progress the claims to allowance.

Thus, in view of the foregoing amendments and remarks, the present application is in condition for allowance, which action is earnestly solicited.

Respectfully submitted,



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